

funds to pay such debts would impair the applicant's financial position.

(3) The obligations were incurred for authorized loan purposes.

(4) Contracts, materials, development and any land purchase meet FmHA or its successor agency under Public Law 103-354 standards and requirements.

(5) Payment of the obligations will remove any liens which have attached, and any basis for liens that may attach, to the property on account of such obligations or such work, materials, or land purchase.

[35 FR 10687, July 1, 1970, as amended at 40 FR 6951, Feb. 18, 1975]

§ 1822.267 Special conditions.

(a) *Evidence of need.* Loans will be made on the basis of the applicant providing firm information as to the number of sites to be developed and evidence of a need for the proposed building sites in the locality.

(b) *Nondiscrimination.* The borrower will be required to agree not to discriminate or permit discrimination, in accordance with section 3 of the loan resolution form "('Rural Housing Site' Loan to Nonprofit Corporation)," available at all FmHA or its successor agency under Public Law 103-354 offices.

(c) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. County supervisors will counsel with applicants in selecting locations that will provide essential services and facilities and will result in the development of desirable residential communities.

(d) *Loan resolution.* A Loan Resolution will be adopted by the applicant's Board of Directors or similar governing body using a form entitled, "((Rural Housing Site) Loan to Nonprofit Corporation)" available at all FmHA or its successor agency under Public Law 103-354 offices. If any provisions are not appropriate to a particular case, proposed substitute language should be submitted to the national office with the recommendations of the State director.

(e) *Development policies.* Development will be planned and performed in accordance with subparts A and C of part 1924 of this chapter, and certain infor-

mation in a guide entitled "Planning and Developing Building Sites" available at all FmHA or its successor agency under Public Law 103-354 offices.

(f) *Water and waste disposal facilities.* If public water and waste disposal facilities are not available and these facilities will be provided on a community basis with funds included in the RHS loan or with other financing, provision should be made to form an organization with members who will provide continuing maintenance and management of facilities. The cost of the facilities should be considered as a cost of developing the sites and included in the price charged for the lots when they are sold.

(g) *Compliance with local codes and regulations.* Planning and development of sites will comply with all State, county, and local planning and zoning requirements, and will be for housing that will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, and sanitation.

(h) *Optioning of land.* If a loan includes funds to purchase real estate, the applicable provisions of subpart A of part 1943 regarding options will be followed. After the loan is approved, the county supervisor will have Form FmHA or its successor agency under Public Law 103-354 440-35, "Form Letter—Acceptance of Option," or other appropriate form of acceptance, completed, signed by the applicant, and mailed to the seller.

(i) *Use of and accountability for loan funds.* Supervised bank accounts will not be used except when their requirement is made or authorized by the State director for cases where adequate bonding is not available. If a supervised bank account is used, collateral for deposits of funds will be pledged when the supervised bank account exceeds \$100,000. All loan funds and funds from other sources to be used to pay the development costs of the site, as well as proceeds from the sale of any sites, will be deposited in accordance with part 1902, subpart A of this chapter. The county supervisor will see that funds for land purchase are paid to the seller simultaneously with loan closing.

After the loan is closed, monthly reports will be provided to FmHA or its successor agency under Public Law 103-354 of all disbursements made and income received by the borrower. Reports for each month will be submitted to the FmHA or its successor agency under Public Law 103-354 county office during the first 10 days of the next month. No expenditures will be made without prior FmHA or its successor agency under Public Law 103-354 consent for items which are not included in the FmHA or its successor agency under Public Law 103-354 approved development cost estimate or for amounts greater than those set forth in such estimate.

(j) *Insurance.* The State director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Suitable workman's compensation insurance will be carried by the applicant for all its employees.

(2) The applicant will be advised of the possibility of incurring liability and encouraged, or required when appropriate, to obtain liability insurance.

(k) *Bonding.* (1) Approved corporate surety bonds will be required in all cases involving a development contract in excess of \$20,000, unless an exception is made by the national office. In other cases, the county supervisor will determine whether a surety bond is required.

(2) The applicant will provide fidelity bond coverage for its officers and employees entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of such funds including funds in bank accounts, and property that the applicant will have in its possession or control at any one time. If permitted by State law, the United States will be named coobligee in the bond. Form FmHA or its successor agency under Public Law 103-354 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(l) *Conditional commitments for construction of homes on developed sites.* Conditional commitments may be issued on sites developed with an RHS

section 524 loan to permit homes to be constructed on sites prior to the sale of the site to an eligible purchaser in accordance with the following:

(1) The requirements of 7 CFR 3550.70 must be met and a conditional commitment issued prior to the start of construction of the home.

(2) The conditional commitment must be issued to an RHS borrower who can legally provide the proposed housing and has the experience and training in construction to the extent necessary to assure that the housing will be built or jointly to the RHS loan borrower and a builder who has the legal capacity, training and experience necessary to construct the housing. In all cases the following language will be added under "other conditions" on Form FmHA or its successor agency under Public Law 103-354 1944-11, "Conditional Commitment":

(i) "Notwithstanding the other provisions of this commitment the sale of completed homes on sites developed with section 524 Rural Housing Site loans will be limited to families eligible for assistance under any section of title V of the Housing Act of 1949 or under any other law which provides financial assistance for housing low- and moderate-income families. The approval of FmHA or its successor agency under Public Law 103-354 will be obtained prior to the sale of each home. The request for approval shall be submitted to the local FmHA or its successor agency under Public Law 103-354 office along with an application for an RH 502 loan or a financial statement from the purchaser and verification of the other credit that is available."

(ii) The benefits of the nonprofit development of the site(s) must be passed on to the purchaser. This will result in this site being sold for \$_____ (price to be determined as provided for in (§1822.275(b))).

(3) In arriving at the commitment price for the site and the completed home, the value will be based on the present market value of the house only, plus the nonprofit selling price of the lot.

(4) If in order to obtain interim financing for the construction of the homes, the RHS loan borrower requests

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a subordination by FmHA or its successor agency under Public Law 103-354 on individual lots, the State Director may approve the subordination by completing and executing a subordination in the format of exhibit C of this subpart.

(5) FmHA or its successor agency under Public Law 103-354's lien on any lot will be released only at the time of sale to an eligible purchaser.

(6) The County Supervisor should provide the necessary supervision to assure that the RHS loan borrower takes the necessary action to assure that all qualified builders in the area are aware of the availability of rural housing sites and are given an equal opportunity to participate in this conditional commitment program. As a minimum, the borrower will be required to submit a signed statement indicating the actions taken including names and dates of contacts with builders.

(7 U.S.C. 1989; 5 U.S.C. 301; sec. 10, Pub. L. 93-347, 88 Stat. 392; 42 U.S.C. 1480; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

[35 FR 16087, July 1, 1970, as amended at 41 FR 47460, Oct. 29, 1976; 42 FR 44669, Sept. 6, 1977; 43 FR 24264, June 5, 1978; 44 FR 1702, Jan. 8, 1979; 45 FR 39793, June 12, 1980; 46 FR 36106, July 14, 1981; 46 FR 61989, Dec. 21, 1981; 52 FR 8002, Mar. 13, 1987; 52 FR 19283, May 22, 1987; 67 FR 78326, Dec. 24, 2002]

§ 1822.268 Rates, terms, and source of funds.

(a) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA or its successor agency under Public Law 103-354 Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office) for the type assistance involved.

(b) *Repayment period.* Final payment will be due 2 years after the date of the loan. When necessary to carry out the loan purposes, the national office may

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authorize extension of maturity dates. As lots are sold before the final due date of the note, the proceeds of the sales will be applied on the account or any prior lien, or, with the prior approval of the national office, used in a manner consistent with the purposes of the loan and the security interest of the Government.

(c) *Source of funds.* Loans under this subpart will be made as insured loans, except that loans under § 1822.278 to develop building sites for sale in connection with self-help projects will be made as direct loans.

[35 FR 10687, July 1, 1970, as amended at 51 FR 6733, Feb. 26, 1986]

§ 1822.269 Security.

Each loan will be secured by a mortgage on the property purchased or improved with the loan, and a security interest in the funds held by the corporation in trust for the Government, in accordance with the provisions of the required Loan Resolution.

§ 1822.270 Technical, legal, and other services.

(a) *Appraisals.* The property will be appraised by an FmHA or its successor agency under Public Law 103-354 employee authorized to make real estate appraisals. The appraisal will consist of a narrative statement prepared and signed by the authorized employee describing in detail the items considered in arriving at the value of the property. Two values will be established by the appraiser:

(1) The fair market value of the total property "as is".

(2) The aggregate fair market value of the building sites after development.

(i) In determining the value of the property, the appraiser will consider the value and selling prices of similar building sites in the area. The selling prices of similar sites must be fully documented.

(ii) [Reserved]

(b) *Title Clearance and Legal Services.* For a loan to a public nonprofit organization, title clearance and legal services will be obtained in accordance with instructions from the OGC, observing the provisions of subpart B of part 1927 of this chapter to the extent